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7
8 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION
9 STATE OF CALIFORNIA

10 In the Matter of:

11 MISTER PHILLIPS FOR SCHOOL
12 BOARD 2016 and MISTER PHILLIPS,

13 Respondents.

FPPC Case No. 17/944

STIPULATION, DECISION AND ORDER

14
15 **INTRODUCTION**

16 Mister Phillips (“Phillips”) was a successful candidate for the West Contra Costa Unified School
17 District Board of Education (the “Board”) in the November 8, 2016 General Election. Mister Phillips for
18 School Board 2016 (the “Committee”) is Phillips’ controlled committee. Phillips also serves as the
19 Committee’s treasurer. The Committee and Phillips (collectively, “Respondents”) violated the Political
20 Reform Act (the “Act”)¹ by failing to timely file two semiannual campaign statements.

21 **SUMMARY OF THE LAW**

22 The Act and its regulations are amended from time to time. The violations in this case occurred in
23 2017. For this reason, all legal references and discussions of law pertain to the Act’s provisions as they
24 existed at that time—unless otherwise noted.

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27 ¹ The Political Reform Act—sometimes simply referred to as the Act—is contained in Government Code sections
28 81000 through 91014. All statutory references are to this code. The regulations of the Fair Political Practices Commission
are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references
are to this source.

1 Need for Liberal Construction and Vigorous Enforcement of the Political Reform Act

2 When enacting the Political Reform Act, the people of California found and declared that
3 previous laws regulating political practices suffered from inadequate enforcement by state and local
4 authorities.² Thus, it was decreed that the Act “should be liberally construed to accomplish its
5 purposes.”³

6 One purpose of the Act is to promote transparency by ensuring that receipts and expenditures in
7 election campaigns are fully and truthfully disclosed so that voters are fully informed and improper
8 practices are inhibited.⁴ Along these lines, the Act includes a comprehensive campaign reporting system.⁵
9 Another purpose of the Act is to provide adequate enforcement mechanisms so that the Act will be
10 “vigorously enforced.”⁶

11 Mandatory Filing of Campaign Statements

12 At the core of the Act’s campaign reporting system is the requirement that committees file
13 campaign statements and reports for certain reporting periods and by certain deadlines.⁷

14 The Act requires a recipient committee to file semiannual campaign statements twice per year
15 disclosing its campaign contributions and expenditures. A recipient committee must file a semiannual
16 statement by January 31 for the period ending December 31, and by July 31 for the period ending June
17 30, or the next business day if the deadline falls on a weekend or holiday.⁸

18 Joint and Several Liability of Committee, Candidate, and Treasurer

19 It is the duty of a committee treasurer to ensure that the committee complies with the Act’s
20 campaign reporting provisions.⁹ A treasurer and candidate may be held jointly and severally liable, along
21 with the committee, for violations committed by the committee.¹⁰

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23 _____
24 ² Section 81001, subdivision (h).

25 ³ Section 81003.

26 ⁴ Section 81002, subdivision (a).

27 ⁵ Sections 84200, *et seq.*

28 ⁶ Section 81002, subdivision (f).

⁷ Sections 84200, *et seq.*

⁸ Section 84200, subdivision (a); Regulation 18116, subdivision (a).

⁹ Sections 81004 and 84100; Regulation 18427.

¹⁰ Sections 83116.5 and 91006.

1 **SUMMARY OF THE FACTS**

2 The Committee is the candidate-controlled committee established by Phillips to support his run
3 for the Board in the November 8, 2016 General Election. Phillips was successful in the at-large election,
4 receiving approximately 22.63 percent of the vote. The Committee qualified on July 22, 2016, as
5 indicated on the Committee’s statement of organization. In 2016, the Committee received a total of
6 \$48,097.64 in contributions and made a total of \$49, 808.92 in expenditures.

7 The Committee failed to timely file the semiannual campaign statement for the period of October
8 23, 2016 to December 31, 2016. The statement, which was due on January 1, 2017, was not filed until
9 October 10, 2017 (252 days late). An amendment to this campaign statement was also filed on February
10 1, 2018, reporting \$17,058 in contributions and \$28,571.97 in expenditures for this period.

11 The Committee also failed to timely file the semiannual campaign statement for the period of
12 January 1, 2017 to June 30, 2017, which was due by September 31, 2017. The statement was, instead,
13 filed on October 10, 2017 (71 days late), and reported -\$234 in contributions and \$2,670.45 in
14 expenditures for this period.

15 **VIOLATIONS**

16 **Count 1**

17 *Failure to Timely File Semiannual Campaign Statements*

18 The Committee and Phillips failed to timely file the Committee’s semiannual campaign
19 statements for the reporting periods of October 23, 2016 to December 31, 2016; and January 1, 2017 to
20 June 30, 2017, in violation of Section 84200, subdivision (a).

21 **PROPOSED PENALTY**

22 This matter consists of one count. The maximum penalty that may be imposed is \$5,000 per
23 count. Thus, the maximum penalty that may be imposed is \$5,000.¹¹

24 In determining the appropriate penalty for a particular violation of the Act, the Commission
25 considers the facts of the case, the public harm involved, and the purposes of the Act. Also, the
26 Commission considers factors such as: (a) the seriousness of the violation; (b) the presence or absence of
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28 ¹¹ See Section 83116, subdivision (c).

1 any intention to conceal, deceive or mislead; (c) whether the violation was deliberate, negligent or
2 inadvertent; (d) whether the violation was isolated or part of a pattern; (e) whether corrective
3 amendments voluntarily were filed to provide full disclosure; and (f) whether the violator has a prior
4 record of violations.¹²

5 Here, the actions of the Committee appear to be the result of negligence, as there is no evidence
6 of deliberate omission or attempts to conceal. Further, Respondents do not have a prior history of
7 violating the Act.

8 The Commission also considers penalties in prior cases with comparable violations. Comparable
9 cases in which a penalty was charged for failure to timely file semiannual campaign statements include
10 the following:

11 • *In the Matter of Robert G. Jones, Robert G. Jones for Los Rios Trustee 2010, and Julianne C.*
12 *Jones*; FPPC No. 16/339 (approved by the Commission on March 22, 2018). Respondents, a candidate,
13 his controlled committee, and its treasurer, failed to timely file two pre-election campaign statements and
14 one semiannual campaign statement. The three statements combined reported a total of \$23,000 in
15 contributions and \$26,103 in expenditures. The Commission imposed a penalty of \$2,000 on one count
16 for the late campaign statements.

17 As to Count 1, Respondents are deserving of a penalty similar to that approved in the *Jones* case,
18 given the similar amount of financial activity that went unreported on the subject campaign statements.

19 In aggravation, Respondents committed other minor violations of the Act that are not being
20 charged here in the interest of settlement. These include a failure to timely file two pre-election campaign
21 statements, which were filed only one day late; and three 24-hour contribution reports, two of which
22 were filed only one day late and one of which was filed 14 days late. Further, although the Committee's
23 statement of organization was timely filed with the Secretary of State, it was filed 25 days late with
24 Contra Costa County.

25 In mitigation, Respondents do not have a prior enforcement history and fully cooperated with the
26 Enforcement Division's investigation in this case.

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¹² Regulation 18361.5, subdivision (d).

1 Based on the foregoing, a penalty in the amount of \$2,000 is recommended for Count 1.

2 **CONCLUSION**

3 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
4 Respondents, Mister Phillips for School Board 2016 and Mister Phillips, hereby agree as follows:

5 1. Respondents violated the Act as described in the foregoing pages, which are a true and
6 accurate summary of the facts in this matter.

7 2. This stipulation will be submitted for consideration by the Fair Political Practices
8 Commission at its next regularly scheduled meeting—or as soon thereafter as the matter may be heard.

9 3. This stipulation resolves all factual and legal issues raised in this matter—for the purpose
10 of reaching a final disposition without the necessity of holding an administrative hearing to determine the
11 liability of Respondents pursuant to Section 83116.

12 4. Respondents understand, and hereby knowingly and voluntarily waive, any and all
13 procedural rights set forth in Sections 83115.5, 11503, 11523, and Regulations 18361.1 through 18361.9.
14 This includes, but is not limited to the right to appear personally at any administrative hearing held in this
15 matter, to be represented by an attorney at Respondents' own expense, to confront and cross-examine all
16 witnesses testifying at the hearing, to subpoena witnesses to testify at the hearing, to have an impartial
17 administrative law judge preside over the hearing as a hearing officer, and to have the matter judicially
18 reviewed.

19 5. Respondents agree to the issuance of the decision and order set forth below. Also,
20 Respondents agree to the Commission imposing against them an administrative penalty in the amount of
21 \$2,000. One or more payments totaling this amount, to be paid to the General Fund of the State of
22 California, is/are submitted with this stipulation as full payment of the administrative penalty described
23 above, and they will be held by the State of California until the Commission issues its decision and order
24 regarding this matter.

25 6. If the Commission declines to approve this stipulation—then this stipulation shall become
26 null and void, and within fifteen business days after the Commission meeting at which the stipulation is
27 rejected, all payments tendered by Respondents in connection with this stipulation shall be reimbursed to
28 Respondents. If this stipulation is not approved by the Commission, and if a full evidentiary hearing

1 before the Commission becomes necessary, neither any member of the Commission, nor the Executive
2 Director, shall be disqualified because of prior consideration of this Stipulation.

3 7. The parties to this agreement may execute their respective signature pages separately. A
4 copy of any party's executed signature page, including a hardcopy of a signature page transmitted via fax
5 or as a PDF email attachment, is as effective and binding as the original.

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7 Dated: _____

Galena West, Chief of Enforcement
Fair Political Practices Commission

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9
10 Dated: _____

Mister Phillips, individually and on behalf of Mister Phillips
for School Board 2016

1 The foregoing stipulation of the parties “In the Matter of Mister Phillips for School Board 2016
2 and Mister Phillips,” FPPC Case No. 17/944 is hereby accepted as the final decision and order of the Fair
3 Political Practices Commission, effective upon execution below by the Chair.

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5 IT IS SO ORDERED.

6
7 Dated: _____

_____ Alice T. Germond, Chair
Fair Political Practices Commission